

810-6-3-.41 Exemption for Municipal Special Health Care Facilities.

(1) Chapter 62 of Title 11, Code of Alabama 1975, as amended, provides for the incorporation and operation of municipal special health care facility authorities.

(2) Section 11-62-18(d) exempts from sales and use tax any purchase of tangible personal property used in the construction and equipment of a special health care facility if the purchase is pursuant to any contractual arrangement between an authority and a user for the acquisition of a facility for sale or lease to the user or for financing the acquisition of a facility by loan from the authority. These purchases are exempt regardless of whether they are made by the authority, the user, or any contractor or agent of either.

(3) To qualify for the sales and use tax exemption outlined in Section 11-62-18(d), the property purchased must become a part of the facility or the equipment of the facility or must constitute supplies or other items necessary for the day to day operation of the facility. Purchases of tangible personal property by an authority's or user's contractor or agent for use by the contractor or agent, when such property does not become a part of the facility or the equipment of the facility or does not constitute supplies or other items necessary for the day to day operation of the facility, are subject to sales or use tax. Examples of nonexempt items are diesel fuel and repair parts for construction equipment, hand tools, and consumable supply items used by the contractor or agent.

(4) Notwithstanding the exemption outlined above, an individual, partnership, or corporation organized for profit that is or will be treated for federal income tax purposes as the owner of property to which a municipal special health care facility authority has title to, or a possessory right in, is liable for sales and use taxes as if the for-profit entity held title to the property unless the individual, partnership, or corporation would be entitled to use the property pursuant to a lease or other agreement entered into before May 21, 1992, or would be entitled to use the property at some future time pursuant to an inducement agreement entered into or adopted before May 21, 1992. For-profit entities, however, may qualify for abatements of certain sales and use taxes pursuant to Chapter 9B of Title 40 of the Code of Alabama 1975. ~~An individual, partnership, or corporation that is not organized for profit is not liable for sales and use taxes under Chapter 9B. Section 40-9B-7 only pertains to private users of private use property. Private user is defined in Section 40-2B-3 as "any individual, partnership, or corporation organized for profit that is or will be treated as the owner of private use property for federal income tax purposes." Therefore, Section 40-9B-7 does not change the tax exempt status of a non-profit entity for sales and use tax purposes.~~

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Authority: Sections 40-2A-7(a)(5), ~~40-9B-4, 40-9B-5, 40-9B-6~~, 40-9B-7, 40-23-31, 11-62-18 and 40-23-83, Code of Alabama 1975

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